



Dear Fellow Delawarean,

When it comes to protecting our families, safeguarding our wallets, knowing our rights as victims of crime, or understanding how the

law can make our communities better, information is the key. Equipped with knowledge, we can make choices that greatly reduce our risk of becoming a victim of crime or fraud, and we can learn how to get help if we're mistreated.

The mission of the Delaware Department of Justice is to protect Delawareans from harm by enforcing the law and being your advocate. We're here to help you, and also to give you the information you need to help yourself and your family. Inside this brochure, you'll find answers to common questions about Delaware's Freedom of Information Act and contact information for the Department of Justice if you require further assistance. Together, we can keep Delaware safe and strong.

Beau Biden
Attorney General

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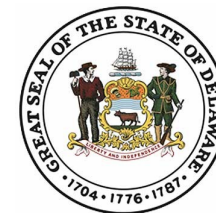
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Freedom of Information Act

Protecting Delawareans'
Right to Know



Delaware Department of Justice



**Attorney General
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Civil Division

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Know Your FOIA Rights

Does the open meeting law apply to all branches of government?

No. FOIA does not apply to the General Assembly or to the courts, which have their own rules for who can attend proceedings.

Can I attend any government meeting?

As a general rule, all meetings of public bodies must be open to the public. This means that the public body must post notice of the date, time, and place of their regular meetings at least seven days in advance. Notice must be clearly posted where the public body regularly meets. The notice must also include an agenda, if available, listing the main items of public business to be discussed.

Can meetings be closed to the public?

Yes, in some circumstances. FOIA permits a public body to meet in executive session, out of public view, to discuss personnel and other confidential matters. FOIA also permits a public body to meet in executive session to obtain legal advice from an attorney.

Do I have a right to speak at a public meeting?

Not under FOIA. Each public body has its own rules and procedures for public meetings and most do allow time for public comment. The Department of Justice encourages public bodies to allow citizen participation.

How can I look at public records?

A public body can require you to make a written request to inspect public records. If the request is granted, you can inspect the public records where they are regularly stored (for example, the town hall) during regular business hours.

Will copying public records cost me anything?

FOIA permits a public body to charge a reasonable fee for the cost of copying a public record.

Can any records be withheld?

Yes. FOIA and other state and federal laws prohibit disclosure of certain information, including: personnel or student records; tax returns of other citizens; Social Security numbers; health and welfare records; Family Services records; criminal history records; investigative files; and prisoner records. The Driver's Privacy Protection Act also limits access to personal information about other Delaware drivers.

Do I have the right of access to judicial records?

No. FOIA does not apply to the courts. But you may have a common law right of access to judicial records, subject to court rules. Most records of the Family Court are not open to public view unless you are a party to the proceeding.

What can I do if I am denied access to a public meeting or a public record?

Under FOIA, you can file a written complaint with the Delaware Department of Justice. The Civil Division will investigate, and make a written determination whether a public body has violated FOIA.

Will the Department of Justice investigate a State agency to determine if it is in violation of FOIA?

No. The Department of Justice will not investigate a complaint against a State agency because FOIA does not allow the Department of Justice to investigate agencies which it represents. You have a right under FOIA to sue the agency in court if you think your rights of access have been denied. As a general rule, you must file suit within 60 days of the violation. If you win your lawsuit, the court can award you costs and expenses, including attorneys' fees.

What Role does the Department of Justice play?

The Civil Division of the Delaware Department of Justice provides legal advice and representation to State agencies and State employees for their official duties. Under Delaware's Freedom of Information Act (FOIA), the Civil Division also investigates complaints from citizens that they have been denied access to the meetings or records of a public body (such as a town or city council, county government, or school board). FOIA gives citizens of the State of Delaware the following rights:

- A right to have notice in advance of meetings where public business will be conducted and to know what items of business will be discussed.
- A right to inspect and copy public records.
- A right to file a complaint with the Department of Justice or sue in court if they believe that their right of access has been denied.

